

**Who Has to File a Corporation License Tax Return?**

Every corporation engaged in business in the State of Montana—unless expressly exempted under 15-31-102(1), Montana Code Annotated (MCA)—has to file an annual Montana Corporation License Tax Return. The term “corporation” includes associations, joint stock companies, common law trusts and business trusts that do business in an organized capacity, whether or not under and pursuant to state laws, agreements or declarations of trust.

A tax of 6.75% needs to be paid on the total net income that you received in the preceding fiscal or calendar year from all sources within Montana. Corporations that have a valid water’s edge election need to pay 7% of the total net income that they received in Montana. If your corporation has sustained a net loss, you will need to file a Montana Corporation License Tax Return. The minimum tax that a corporation has to pay is \$50. For a combined tax return, the minimum tax applies to each corporation with Montana activity.

**When Does a Corporation Need to File?**

The due date for calendar year taxpayers is May 15. The due date for fiscal year taxpayers is the fifteenth day of the fifth month after the close of the taxable year. Interest of 12% per year, calculated daily, accrues on any tax liability that you have not paid by the original due date of your tax return.

A corporation is allowed an automatic extension to file its tax return of up to six months following the prescribed filing date. 15-31-111(3)(a), MCA. You are not required to apply for this extension.

**Where Should a Corporation File?**

Please visit our website at [mt.gov/revenue](http://mt.gov/revenue) for electronic filing options.

You can mail your paper tax returns to: Montana Department of Revenue, PO Box 8021, Helena, MT 59604-8021.

**Part I - Filing Method**

**Line 1** - Check this box if you are exempt from tax under the provisions of Public Law 86-272. Please refer to Administrative Rules of Montana, Section 42.26.501 for guidance about whether your corporation can file as tax exempt. If you are exempt from tax, you still need to complete and attach Schedule K. If you check this box, you may skip questions 2 through 5 of this part.

**Line 2** - Check the “Yes” box if you are a member of a consolidated group for federal purposes, either as a parent or a subsidiary, and complete lines 3 and 4 of this part. Check the “No” box if this does not apply to you and go to line 3 of this part.

**Line 3** - Check the “Yes” box if you are filing a *combined* return for Montana purposes (see explanation below). If you check the “Yes” box, you must enter the number of entities with activity in Montana for this return and complete lines 4 and 5 of this part. Check the “No” box if you are not filing a combined return and skip lines 4 and 5 of this part.

If your corporation engages in a particular trade or business with one or more unitary corporations, you will have to file a combined tax return in which you apportion the entire business income from such trade or business in keeping with 15-31-305 through 15-31-311, MCA. All unitary affiliated corporations that are owned more than 50% are required to be included in your combined report. A business is unitary when the operations of that business within the state depend on or contribute to the operations of that business outside the state. If you are filing a combined return for Montana purposes, and have more than one corporation with Montana activity, you will need to complete and attach Schedule K-COMBINED (see sample on on page ??? of this booklet). An Excel format of Schedule K-COMBINED is available on our website at [mt.gov/revenue](http://mt.gov/revenue).

**Line 4** - If you answered “Yes” to questions 2 or 3 of this part, check the box that indicates the filing method that applies to your company, and complete and attach a Montana Schedule M. Your corporation has to qualify in order to file under methods other than a combined method. We expect you to use the same filing method consistently from year to year.

- a. **Separate Company** - Check this filing method if your corporation is a part of a combined federal consolidated group but is filing a separate, proforma tax return for Montana purposes (non-unitary with the other members of the federal consolidated group). Note: If you attach a proforma federal Form 1120 to your Montana tax return, you also have to attach a signed copy of the federal Form 1120 prepared for your ultimate parent corporation.
- b. **Separate Accounting** - Check this filing method if your corporation’s business operations in Montana are not unitary with your corporation’s business operations outside of Montana. All of your corporation’s income and expenses that are attributed to business operations within Montana have to be able to be separated from the total income and expenses of your corporation. You will also have to attach a detailed description of your Montana activity.
- c. **Worldwide Combination** - Check this filing method if your corporation has a unitary relationship with its domestic and foreign subsidiaries. You will need to attach federal Forms 5471 for each controlled foreign corporation or a detailed schedule of your foreign income.

- d. **Domestic Combination** - Check this filing method if your corporation has a unitary relationship with its domestic subsidiaries, and does not have 50% or greater ownership of a foreign subsidiary.
- e. **Limited Combination** - Check this filing method if your corporation has excluded one or more of its subsidiaries from its combined unitary group. Include on your Schedule M all those subsidiaries (foreign and domestic) that are not included in this unitary group.
- f. **Water's Edge** - You can use this method of filing only if your corporation has made a valid water's edge election with the State of Montana. Multinational, unitary corporations that wish to file under the water's edge method will have to file a written election within the first 90 days of the tax period for which that election is to become effective. This election has to be approved by our department and it is binding for three consecutive taxable periods. If your corporation wishes to extend this election for another three-year period, it will have to file a new election within the first 90 days of the tax period for which the extension to this election is to become effective.

For tax periods that begin after December 31, 2003, corporations that make a valid water's edge election have to include in their water's edge group all of that group's subsidiaries that are incorporated in countries set forth under the provisions of 15-31-322(1)(f), MCA.

Those corporations filing under a valid water's edge election must submit Schedule WE with their Montana Form CLT-4. Please refer to Schedule WE and its instructions on pages XX-XX of this booklet.

**Line 5** - If you answered "Yes" to questions 2 or 3 of this part, enter the name and FEIN of your ultimate parent and attach pages 1 through 4 of the parent's consolidated federal Form 1120.

## Part II - Amended Tax Return

Use this form to amend your original tax return. Indicate at the top of the form that this represents an amended filing and check the box that indicates the reason(s) why you are amending your tax return. Please attach the applicable forms and statements that can explain in detail all of your adjustments. Complete the entire form using the corrected amounts.

- We do not have to pay interest on a refund that results from a net operating loss carry-back or carry-forward. 15-31-119(9), MCA.
- We compute interest on overpayments of tax or additional tax due at the rate of 12% per year.
- Statute of Limitations. For years beginning on or after March 13, 1997, we can allow a refund or

credit for any tax return that you file within three years of its original due date without regard to an extension of time to file. 15-31-509(2), MCA.

- If you file an amended return that reflects an increased tax liability, we may not require you to pay the late payment penalty. In order to receive the waiver, simply check the "Amended Return" box on the top left-hand corner of the tax form and pay the tax and applicable interest in full. By checking this box, you are requesting a waiver of the late payment penalty.

## Part III - General Questions (a-l)

Check the appropriate box. You will need to answer all of the questions. If you answer yes to any of the questions (h-l), you will have to complete and attach Schedule M.

## Part IV - Reporting of Special Transactions

Check the appropriate box. You will need to answer all of the questions. If you answer yes, you will have to attach a copy of the applicable form.

**Declaration - If all questions in parts I through IV are not answered, we will return your tax form to you so that you can complete it.**

## Montana Taxable Income and Net Amount Due

### Line 1 - Taxable Income.

The taxable income that you reported on line 28 of your federal tax return (Form 1120) has to be entered on line 1 of your Montana tax return (Form CLT-4). You have to attach to your Form CLT-4 a complete copy of the signed Form 1120 that you filed with the Internal Revenue Service. If your Form 1120 is voluminous, please attach pages 1 through 4, along with the schedules that you used to compute your income and deductions and the supporting federal schedules for each of the following items, if applicable:

- Line 2 - Cost of Goods Sold/and or Operations
- Line 8 - Net Capital Gains (Schedule D)
- Line 9 - Ordinary Gains/(Loss) (Form 4797)
- Line 10 - Other Income
- Line 17 - Taxes
- Line 19 - Charitable Contributions
- Line 26 - Other Deductions
- Form 1120-FSC - U.S. Income Tax Return of a Foreign Sales Corporation
- Form 8873 - Extraterritorial Income Exclusion
- Schedule M-3
- Schedule N

**Line 2 - Montana Additions.**

- (a) The Montana corporation license tax and other state, local and foreign income taxes that have been deducted on your federal tax return have to be added back to your income on line 2a. 15-31-114(1)(e), MCA. Please attach a breakdown of your federal Form 1120, line 17 taxes.
- (b) Municipal bond interest is taxable and should be added to your income on line 2b. 15-31-113(1)(a)(i), MCA.
- (c) If you claim the qualified endowment credit on your tax return, the amount of contribution that you used to compute your credit should be included in the amount of income that you included on line 2c. 15-31-161, MCA.
- (d) We require corporations that are engaged in a unitary relationship with an international group to make a worldwide combined filing. Enter any income or loss from your foreign parent and from all foreign subsidiaries that are included in the worldwide combined group. Please attach supporting schedules or your federal Form 5471.
- (e) Unitary filers should enter the income or loss from unitary subsidiary corporations that are not included in their federal consolidated group. For example, subsidiary corporations in which members of the collective unitary group own more than 50% of that corporation should be included here. Attach a copy of the federal Form 1120 and supporting schedules for the separately filed corporation(s).
- (f) We do not allow the federal extraterritorial income exclusion for Montana tax purposes. Consequently, your federal deduction for extraterritorial income has to be added back when you compute your Montana taxable income. Please attach federal Form 8873, Extraterritorial Income Exclusion and federal Schedule N, Foreign Operations of U.S. Corporations.
- (g) Enter the amount from line 11 of your Schedule WE. Schedule WE is on page XXX of this booklet, and is also available on our website at [mt.gov/revenue](http://mt.gov/revenue).
- (h) For Water's Edge filers only, enter any income or loss of unitary corporations incorporated in a tax haven country. Please attach a supporting schedule. 15-31-322(1)(f), MCA.
- (i) We do not allow the federal capital loss carry-over as part of your allowable deduction for Montana corporation license tax purposes. Any amount of federal capital loss carry-over that you used on your federal tax return has to be added back when you compute your Montana taxable income.

- (j) You will have to attach to your Form CLT-4 a detailed breakdown of any other additions to your income and report it on line 2j.

**Examples of other additions:**

- **Film Production Credit** - If you claim a film production credit, you have to include the amount of the expenditures that you used to compute this credit in your income for the year you incurred this expenditure.
- **Insure Montana Credit** - If you claim a credit for insurance premiums paid during the year, you have to include the amount of insurance premiums that you used to compute this credit in your income for the year that you incurred this expense. The amount to include is two times the amount of the allowable credit. 33-22-2006(4), MCA.
- **Foreign Sales Corporation Income** - If you owned a foreign sales corporation, you have to include the total net income (before the federal exemptions) reported on each federal Form 1120-FSC in your calculation of Montana taxable income.

**Line 3 - Montana Reductions.**

- (a) Montana allows a deduction for Section 243 dividends at the same percentage as the federal deduction. This deduction should be reported here.
- (b) **Nonbusiness Income** (for multi-state taxpayers only) - Business income means income arising from transactions and activity in the regular course of your trade or business. It includes income from tangible and intangible property if the acquisition, management and disposition of that property constitute integral parts of your trade or business operations. We assume that gains or losses from the sale of capital or business assets, dividends, interest, rents, or royalties are business income unless they can be clearly classified as nonbusiness income. You will have to attach to your tax return a statement or schedule that describes the type of income and which explains in detail why you consider that income to be nonbusiness. You should report all nonbusiness income here.
- (c) You can deduct an additional 10% of the cost for the purchase of recycled material, as computed on Form RCYL. You will have to attach a copy of Form RCYL to your tax return. 15-32-610, MCA.
- (d) Multi-state corporations should enter the income or loss of all of its non-unitary corporations that are included in the federal consolidated group.
- (e) If you are using the water's edge method of filing, you will need to enter the total of federal line 28



income or loss of all your 80/20 companies on line 3e.

- (f) You have to deduct capital losses in the year that you incurred those losses. 15-31-114(1)(b), MCA. Enter the amount of capital loss that you incurred during the tax period that has not already been deducted on your federal tax return. Please attach your federal Schedule D.
- (g) Report here any other deductions that are allowable as you compute your Montana taxable income. Please attach a detailed schedule to your tax return.

Examples are:

- The amount of contributions made by a small business to its independent liability fund. 33-27-117(1), MCA.
- A portion of an investment made in a building for the purpose of conserving energy. 15-32-103, MCA. To qualify, the building has to be used in the corporation's business and the result of the investment has to show a substantial reduction in the amount of energy needed to render the building usable.
- Documented expenses for the donation of mineral exploration information to the Montana Tech Foundation. 15-32-510, MCA.

**Line 4 - Adjusted Taxable Income.** Add lines 1 and 2, then subtract line 3; enter total here.

**Line 5 - Income Apportioned to Montana.** Multi-state taxpayers should multiply the amount reported on line 4 by the apportionment percentage from Schedule K, line 5. Enter the result here.

**Line 6 - Income Allocated Directly to Montana.** Multi-state taxpayers should report on line 6 any income that is allocable to Montana. Attach a detailed description and applicable supporting schedules.

**Line 7 - Montana Taxable Income Before Net Operating Loss.** Add lines 5 and 6 and enter the result on line 7, or enter the amount shown on line 4. If you incurred a net operating loss, enter a negative amount. This loss first has to be carried back to the three preceding taxable periods prior to the year of loss. 15-31-119, MCA.

If you elect to forego the entire carry-back period, you should check the "Yes" box on this line. Once you make this election to forego the carry-back, that election is irrevocable for the year that you make it. If you report a net loss on line 7 and do not check either box, that loss has to be carried back.

**Line 8 - Montana Net Operating Loss Carry-over.** If line 7 is a positive amount, the loss that you claim on line 8 cannot exceed the amount of income that you reported

on line 7. If line 7 is a negative amount, enter \$0 on line 8. If you have sustained a Montana net operating loss in a preceding year, you can apply the remaining loss against the income that you reported on line 7. You can carry forward any net operating loss that you incurred for seven taxable periods following the year of that loss. If you claim a Montana net operating loss deduction on line 8, you will have to attach a detailed schedule of your net operating loss carry-over.

If you are filing a combined tax return and have more than one corporation active within Montana, you need to compute the net operating loss on a separate entity basis. Schedule K-Combined on page ??? of this booklet may be used to calculate the separate entity net operating loss. Please refer to the instructions for Schedule K on page XXX of this booklet. If you are claiming a net operating loss carryover deduction from a prior period, you will need to provide the loss detail calculated on a separate entity basis when you file the tax return claiming the loss. Please refer to the Excel format of Schedule K-Combined for an acceptable template. This schedule is available on our website at [mt.gov/revenue](http://mt.gov/revenue).

**Line 9 - Montana Taxable Income.** Subtract any loss reported on line 8 from line 7 and enter the Montana taxable income on line 9.

#### Tax Due

**Line 10 - Montana Tax Liability.** Multiply line 9 by 6.75% (7% for corporations filing under a valid water's edge election) and enter the total on line 10. Your Montana tax liability cannot be less than \$50 (15-31-121(3), MCA), with the exception of the alternative tax. The \$50 minimum tax applies to each corporation having activity in Montana, regardless of whether the company has a net operating loss. Therefore, line 10 should not be less than \$50 times the number of companies with Montana activity.

#### Alternative Tax

If your only activities in Montana consist of sales and they do not include owning or renting real or tangible personal property and if the dollar volume of gross sales that you made during the tax year within Montana does not exceed \$100,000, you can elect to pay a tax of 0.5% on the gross volume of sales that you made in Montana in lieu of paying the corporation license tax that is based on your net income. If you elect to pay the alternative tax, please check the box and enter your calculated tax liability on line 10.

#### Line 11 - Payments.

- (a) **2007 overpayment** - If you made an overpayment of your 2007 tax that has not been refunded previously, you can claim it as a credit on line 11a.

- (b) Tentative payment** - You can elect to make a tentative payment of tax by attaching a remittance to the Montana Corporation License Tax Payment Voucher, inserted in this booklet. Please make your check payable to the Montana Department of Revenue. Be sure to reference your federal employer identification number (FEIN) on your check. If you made a tentative payment, enter the amount on line 11b.
- (c) Quarterly estimated tax payments** - If you made quarterly estimated payments during 2008, enter the total of those payments on line 11c.
- (d) Montana mineral royalty tax withheld** - Attach Form(s) 1099.
- (e) Other payments** - Please include any payment that you did not report above. Enter a description of the type of payments included on this line.
- (f) Refunds previously issued** - If you received a refund when you filed your original tax return or a previous amended tax return, include the amount of the refund on line 11f. Enter on this line a description of the type of payments that you included.

Add the payments reported on lines 11a through 11f and enter the total payments on line 11.

**Line 12 - Credits.** Enter the total from Schedule C in column C. To claim any credit on Form CLT-4, you will need to attach a completed copy of Schedule C and the prescribed forms and or detailed schedules for the credits that you claim. Please see the instructions for Schedule C on pages X through XX of this booklet.

**Line 13 - Tax Due or Overpayment.** Add lines 11 and 12, then subtract from line 10 and enter the result here. Your tax is due by the fifteenth day of the fifth month following the close of the taxable year. If you choose the automatic extension of up to six months, the tax plus any applicable penalty and interest is due when you file your tax return. (The automatic six-month extension to file is not an extension to pay.)

**Line 14 - Overpayment Credited to 2009 Estimated Tax.** Indicate the amount, if any, of the overpayment that you wish to be applied to your 2009 estimated tax. If you are filing an amended return, enter the amount of overpayment applied as requested on the original return or previously amended return.

**Line 15 - Net Tax Due or Overpayment.** Add lines 13 and 14 and enter the result on line 15.

**Line 16 - Interest.** When you do not pay your tax by the original date that it is due, interest on the tax due accumulates at the rate of 12% per year until the tax is paid. Interest will be calculated at 12% per year, calculated daily on the unpaid tax. Your taxes are due by

the fifteenth day of the fifth month following the close of the taxable year.

**Line 17 - Estimated Tax Underpayment Interest.** If your tax liability is \$5,000 or greater, you have to make quarterly estimated payments. 15-31-502, MCA. A 12% per year interest penalty will have to be charged on any underpayment. 15-31-510, MCA.

Compute the estimated tax underpayment interest penalty, if applicable, on Form CLT-4-UT and attach a completed copy to your tax return. Enter the amount of interest penalty on line 17. If you use the annualized/seasonal method to compute the penalty, check the box on line 17 of the CLT-4, page 3 and attach a copy of the federal Form 2220 that you filed with your federal tax return. Form CLT-4-UT and its detailed instructions are available on our website at [mt.gov/revenue](http://mt.gov/revenue).

#### Line 18 - Penalty.

- (a) Late filing penalty** - If you do not file your tax return with the department by the due date (including any extension of time), we will have to charge a late filing penalty of \$50 or the amount of the tax that was due, whichever is smaller. If you have made an overpayment of your tax, no late filing penalty will be charged.
- (b) Late payment penalty** - If we do not receive your payment by the original date that it is due, we will have to charge a late payment penalty of 1.2% per month or fraction of a calendar month on any unpaid tax. This penalty cannot exceed 12% of your tax due. It is calculated from the original due date of your tax return. Please note that the automatic six-month extension to file is not an extension to pay.

**Line 19 - Total Due or Overpayment.** Add any applicable interest or penalties that you reported on lines 16, 17, or 18 to the liability that you reported on line 15.

- (a)** If the result is positive, enter the amount due here. You can use either of the following two methods to submit your payment.
- Pay the amount due to the Montana Department of Revenue and include the completed Montana Corporation License Tax Payment Voucher that is inserted in this booklet. Send your payment and voucher with your tax return to: Montana Department of Revenue, PO Box 8021, Helena, MT 59604-8021.
  - You can visit our website at [mt.gov/revenue](http://mt.gov/revenue) to enroll in Business Tax Express, a free service that allows your company to pay corporation license tax online. For questions or to add corporation license tax to your current Business Tax Express account, call (406)

444-6900. Visit our website at [mt.gov/revenue](http://mt.gov/revenue) for more electronic payment options.

- (b) If the result is negative, enter the amount of refund that you are requesting. Please check the "Refund Return" box located on the top left hand corner of page 1 of Form CLT-4.

If you want your refund directly deposited, in the space provided, enter your financial institution's routing number (RTN#) and your account number (ACCT#), and indicate whether your account is your checking or savings account. Your routing number will be nine digits and your account can be up to 17 characters (both numeric and alpha). Your direct deposit will be rejected if the routing number or account number is incorrect. If your direct deposit is rejected, we will mail you a check.

**Please Note - If your tax return is not signed by an officer of the reporting entity, or if it is not completed in its entirety, we will have to send your tax return back to you to be completed.**

## Instructions for Schedule K

**Schedule K applies only to multi-state taxpayers. All multi-state taxpayers have to complete and attach the Schedule K to their Montana Form CLT-4. If you are filing a combined return and have more than one company with Montana activity, you will need to compute each company's apportionment factor on a separate entity basis.**

Schedule K-COMBINED on page XXX of this booklet is a sample of the format for calculating the separate entity apportionment factor. Please refer to the Excel format of Schedule K-COMBINED for an acceptable template. This schedule is available on our website at [mt.gov/revenue](http://mt.gov/revenue).

In most cases, multi-state taxpayers have to compute their Montana taxable income by means of the apportionment factor calculated on Schedule K. The apportionment factor is the standard UDITPA (Uniform Division of Income for Tax Purposes Act) three-factor formula of property, payroll and sales used by most states with a corporate tax based on net income.

When a corporation is engaged in a unitary business within and without the State of Montana, the net income assignable to Montana has to be determined using the apportionment factor. A business is unitary when the operations of that business within the state depend on or contribute to the operations of that business outside the state. Schedule K has to be completed fully by every corporation that carries on a unitary business within and without the state. If you have determined the income that you attribute to Montana on some basis other than the apportionment method, you will need to include a

full and detailed description of your business operation along with an explanation of the method that you proposed. Even if the Montana Department of Revenue pre-approves an alternative method of determining your taxable income, you will still need to complete and submit Schedule K.

Following is a detailed explanation of how to calculate the apportionment factor. To calculate each of the factors, use the following formula: column B divided by column A, times 100. Round out to at least the fourth decimal (example: 25.5555%)

### **Property Factor** (Line 1, Schedule K) -

15-31-306, MCA. The property factor is a fraction. The numerator is the average value of the taxpayer's real and tangible personal property owned, leased or rented and used in Montana in the production of business income during the tax period. Enter the numerator values in column B of Schedule K. The denominator is the average value of all the taxpayer's real and tangible personal property owned, leased or rented and used in the production of business income during the tax period. Enter the denominator values in column A of Schedule K.

Property owned by the taxpayer is valued at its original cost. Real and tangible personal property that is used in that business includes land, building, machinery, equipment, stocks of goods, inventories, depletable assets and other tangible property actually used in connection with the production of the business income to be apportioned. It does not include money, accounts receivable or other intangible property, real property that is held for investment or nonbusiness purposes or idle property of any nature.

To the extent that it is utilized in Montana, migratory property has to be included in the numerator.

Unless we otherwise require it, the average value of owned property has to be determined by averaging the values at the beginning and ending of the tax period.

All property that you rent has to be valued at eight times the net annual rental rate. Rental expense cannot be averaged. You have to use your rental expense for the current year in this property factor.

**Payroll Factor** (Line 2, Schedule K) - 15-31-308, MCA. The payroll factor is a fraction. The numerator is the total amount that you paid for compensation attributable to the production of business income during the tax period in Montana. Enter the numerator values in column B of Schedule K. The denominator is the total amount that you paid for compensation attributable to the production of business income during the tax period. Enter the denominator values in column A of Schedule K.

Payroll is considered to be paid in Montana if:

- the base of operations is in Montana.



- there is no base of operations and the place from which the service is directed or controlled is in Montana.
- the base of operations or the place from which the service is directed or controlled is not in a state where some part of the service is performed but the person who provides the service is located in Montana.

**Sales Factor** (Line 3, Schedule K) - 15-31-310, MCA.

Sales means all gross receipts of the taxpayer exclusive of nonbusiness income and inter-company transactions. The sales factor is a fraction. The numerator is the taxpayer's total sales in Montana during the tax period. Enter the numerator values in column B of Schedule K. The denominator is the taxpayer's total sales everywhere during the tax period. Enter the denominator values in column A of Schedule K.

Sales of tangible personal property are in Montana if:

- the property is delivered or shipped to a purchaser in Montana, other than the United States Government; or
- the taxpayer is not taxable in the state of the purchaser.

Sales other than sales of tangible personal property are in Montana if:

- the income-producing activity is performed in Montana; or
- the income-producing activity is performed both in and outside Montana and a greater proportion of the income-producing activity is performed in Montana than in any other state, based on costs of performance.

**Sum of Factors** (Line 4, Schedule K) - Add lines 1, 2 and 3 in column C. Enter the result on line 4 in column C.

**Apportionment Factor** (Line 5, Schedule K) - Divide line 4 by the number of factors present. A factor is present if you have a value in column A for property, payroll, or sales. Enter the apportionment factor on line 5 of Schedule K and also insert it on line 5, page 3 of Form CLT-4, rounding it out to at least the fourth decimal (example: 25.5555%).

### Instructions for Schedule C - Tax Credits

**You have to attach a completed copy of Schedule C and the required corporation tax forms or schedules to your Form CLT-4 in order to offset any tax liability by these credits.**

Calculate the total credit available for each line. Column A is the amount of tax credit earned during the current period. Column B includes the amount from column A plus any tax credits allowed to be carried over from other

tax periods and that have not yet been used. Column C is the amount of tax credit that you can use for the current period.

**Line 1 - New/Expanded Industry Credit.** (In order to qualify for this, you will have to include a detailed schedule.) A manufacturing company that begins or expands operations and increases its total full-time employment by at least 30% is eligible for this credit. The amount of this credit is 1% of the total wages, as defined in 39-51-201, MCA, paid to new employees. This credit is available during each of the first three years after that company initiates or expands its manufacturing operation. 15-31-124, MCA. This credit is limited to the year in which it is earned. Please note that it cannot be carried back or carried over.

**Line 2 - Interest Differential Credit.** (In order to qualify for this, you will have to include a detailed schedule.) A public utility or financial institution that has lent money to be used for energy conservation purposes prior to July 1, 1995, can claim a credit for the difference between the interest it actually receives and the interest it would have received at the prevailing rate for home improvement loans. 15-32-107, MCA. The credit that a utility can claim cannot exceed \$750,000 per year and the credit that a financial institution can claim cannot exceed \$2,000 per year.

**Line 3 - Montana Dependent Care Assistance Credit (Form DCAC).** An employer can claim a credit for amounts that it paid or incurred for dependent care assistance that it provided to employees. 15-31-131 and 15-31-133, MCA.

This assistance can be in the form of:

- Acquiring, constructing, reconstructing, renovating, or improving real property for the primary use as a day-care facility. This credit is the smaller of:
  - \$2,500 times the number of dependents that the day-care facility is designed to accommodate;
  - 15% of acquisition, construction, reconstruction, renovation, or other improvement cost; or
  - \$50,000.
- Providing dependent care assistance to employees that meets the requirements of Internal Revenue Code 26 U.S.C. 129(d)(2) through (d)(6). The credit is 25% of the amount paid or incurred by the employer during the taxable year with a limit of \$1,575 per employee.
- Providing information and referral services to assist employees within the state in obtaining dependent care. The credit is 25% of the amount paid or incurred by the employer during the taxable year.

**Line 4 - Montana College Contribution Credit (Form CC).** Taxpayers who make charitable contributions to any general endowment funds of the Montana University System or to any general endowment fund of a Montana

private college or its foundation during the year are allowed a credit in the amount of 10% of the aggregate of these contributions. 15-30-163, MCA. The maximum amount of credit that can be claimed is \$500 per year with no provision for carry-back or carry-over.

**Line 5 - Health Insurance for Uninsured Montanans Credit (Form HI).** Employers can claim a credit for the health insurance premiums that are paid by the employer for its employees. 15-31-132, MCA. The credit can be up to \$25 a month for each employee. The maximum credit that can be claimed each year is \$3,000 with no provisions for carry-back or carry-over. If you are using insurance premiums to calculate the Insure Montana Credit (line 20), these premium payments cannot be used to calculate the Health Insurance for Uninsured Montanans Credit. 33-22-2-2007(4), MCA.

**Line 6 - Montana Recycle Credit/Deduction (Form RCYL).** Employers can claim a credit for their investments in equipment or machinery used to collect, process or manufacture a product from reclaimed material or depreciable property that treats soil contaminated by hazardous wastes. 15-32-602, MCA; 15-32-603, MCA. This credit is a percentage (5% to 25%) of the cost of the property used in Montana, before consideration of trade-in equipment. An exception to this is that the basis will be reduced by any trade-in for which this credit has previously been taken. The credit is limited to the current year tax liability with no provisions for carry-back or carry-over.

**Line 7 - Alternative Energy Production Credit (Form AEPC).** A credit is available to alternative energy producers. 15-32-402, MCA. The credit is 35% of the eligible costs associated with the purchase, installation or upgrading of generating equipment, safety devices and storage equipment, transmission lines necessary to connect with existing transmission facilities, and transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available. The credit must first be claimed in the year in which the asset was placed in service; any excess credit may be carried over seven years. Taxpayers who meet criteria established in 15-32-404, MCA, may carry-over the credit for 15 years.

**Line 8 - Contractor's Gross Receipts Tax Credit.** A company that has paid public contractor's gross receipts tax under 15-50-207, MCA can be entitled to a credit for a taxable year within which the net income from contracts subject to the gross receipts tax is reported. After the corporation has deducted its personal property taxes, it can apply the remaining credit, if any, to its corporation license tax liability. Starting in 2006, any excess credit can be carried forward to the next succeeding tax year for up to five years.

To support the credit that you claim, you will have to attach a schedule or statement including the contract name (and number, if any), location, general description

(for example: building, road, bridge, etc.), name of awarding agency, name of prime contractor and the amount of gross receipts tax paid, as well as the amount that has been applied to personal property taxes. If you report your income from contracts on a percentage-of-completion basis, this credit has to be allocated proportionately.

**Line 9 - Alternative Fuel Credit (Form AFCR).** 15-30-164, MCA. (In order to qualify for this, you will need to include a detailed schedule.) You can be allowed a credit for equipment and labor costs that you incur in order to convert a motor vehicle licensed in Montana to operate on alternative fuel. The maximum credit is equal to 50% of the equipment and labor costs incurred but cannot exceed: \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less, or \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds. You have to apply this credit in the year in which the conversion was made. It cannot be carried back or carried forward.

**Line 10 - Infrastructure Users Fee Credit.** You can claim a credit for the infrastructure users fee paid to a local government. To claim the credit described in 17-6-316, MCA, you have to meet the criteria set forth in 17-6-309(2), MCA, and pay the infrastructure users fee. This form has to be certified by the county, verifying the amount of the infrastructure users fee paid and the timeliness of your payment. This credit can be carried forward for seven years or carried back for three years.

**Line 11 - Qualified Endowment Credit (Form QEC).** 15-31-161, MCA. You are allowed a credit for gifts to a qualified charitable endowment against your corporation license tax. This credit cannot exceed your tax liability. It is non-refundable and can not be carried back or carried forward. The value of the gift that you used when you calculated your credit cannot be claimed as a deduction under 15-31-114, MCA, and has to be added back on line 2 of the Form CLT-4.

If you file on an accrual basis, the credit that you claim has to be taken in the year that you reported it for federal tax purposes. The appropriate percentage that you used when you calculated your credit has to be determined by the actual date that your gift was made.

Attach Form QEC and your verification requirements for any planned gift or outright charitable gift made to a qualified endowment. See instructions on Form QEC for verification requirements. To learn more about the endowments statewide, visit the Governor's Task Force on Endowed Philanthropy website at [www.endowmentmontana.org](http://www.endowmentmontana.org).



Planned Gifts		
Planned Gift Date	Percent of Present Value	Maximum Credit
1-1-97 through 12-31-01	50%	\$10,000
1-1-02 through 8-27-02	40%	\$10,000
8-28-02 through 6-30-03	30%	\$6,600
7-1-03 through 12-31-13	40%	\$10,000
Qualified Outright Charitable Gifts		
Qualified Charitable Gift Date	Percent of Charitable Gift	Maximum Credit
1-1-97 through 12-31-01	50%	\$10,000
1-1-02 through 8-27-02	20%	\$10,000
8-28-02 through 6-30-03	13.3%	\$6,600
7-1-03 through 12-31-13	20%	\$10,000

If a charitable gift is recovered in the current year, the amount of tax due has to be increased by the amount of credit allowed in the year that the credit was taken. Enter the amount of credit recaptured on line 11a.

**Line 12 - Historical Buildings Preservation Credit.**

15-31-151, MCA. (In order to qualify for this, you will have to attach federal Form 3468.) You can claim a credit for expenditures that you made in relation to the preservation of certain historic buildings located in Montana. Qualifying historic buildings are those structures defined in Section 47 (c) of the Internal Revenue Code. The allowable Montana credit is 25% of the federal rehabilitation credit provided for in Section 47 (a) (2) of the IRC.

This credit is a nonrefundable credit. Any unused credit can be carried forward for up to seven years succeeding the year in which the credit is generated.

**Line 13 - Increase Research and Development**

**Activities Credit (Form RSCH).** A credit is available to you for increases in qualified research expenses and basic research payments for research that is conducted in Montana. 15-31-150, MCA. The credit is determined in accordance with section 41 of the IRC, 26 U.S.C. 41, with the exception that the applicable rate is 5% for Montana purposes. You will have to attach to your tax return a completed copy of the form provided by us.

Any unused credit cannot be refunded, but may be carried back two years and carried forward 15 years.

**Line 14 - Mineral Exploration Incentive Credit (Form**

**MINE-CRED).** You can claim a credit for certified expenditures of mining exploration activities (15-32-502, MCA), not to exceed 50% of the corporation tax liability. Certified expenditures are the costs that you incur for activities that directly support the exploration activity conducted at a specific exploration site. This credit applies to activities associated with both new mines and mines that are being reopened. Enter your allowable credit on line 14 of Schedule C.

**Line 15 - Empowerment Zone Credit.** For tax periods beginning on or after October 1, 2003, an employer is allowed a credit for each new employee at a business

in an empowerment zone under 15-31-134, MCA. To be eligible for this credit you have to be certified by the Montana Department of Labor and Industry. The credit can be carried forward seven years and carried back three years.

**Line 16 - Film Production Credit (Form FPC).** To claim this credit, you have to make an application and your fee has to be paid by the time you file your tax return.

You can claim a credit for the employment of residents of this state or for qualified expenditures in this state in connection with a state-certified production in Montana. 15-31-902, MCA. The expenditures that you use to calculate this credit cannot be taken as deductions that you used to calculate Montana taxable income. If your production company's certification is revoked after you take the credit, you will need to recapture the credit on line 16a of Schedule C.

**Line 17 - Biodiesel Blending and Storage Credit**

**(Form BBSC).** A credit can be claimed by a qualified taxpayer for the cost of investments in depreciable property used for storing or blending biodiesel made from Montana products with petroleum diesel for sale. 15-32-703, MCA. This credit can be carried over for seven tax periods if the facility is blending or storing biodiesel for blending. If the facility ceases blending biodiesel for sale for a period of 12 consecutive months within five years of claiming the credit, the credit is subject to recapture. If the facility's biodiesel sales are not at least 2% of all diesel sales by the end of the third year after the credit is initially claimed, the credit is subject to recapture. The recapture is reported on line 17a of Schedule C.

**Line 18 - Oilseed Crushing and Biodiesel/**

**Biolubricant Production Credit (Form OSC).** You can claim a credit for the cost of investments in qualifying depreciable property used to crush oilseed crops for the purpose of making biodiesel fuel or biolubricant, or used to construct or equip a facility in Montana to be used for producing biodiesel or biolubricant. 15-32-701-702, MCA. This credit can be carried over for seven tax periods if the facility is crushing oilseed during that tax period. If the facility for which the credit is claimed ceases operations for a period of 12 consecutive months within five years of claiming the credit, the credit is subject to recapture. The recapture is reported on line 18a of Schedule C.

**Line 19 - Geothermal System Credit (Form ENRG-A).**

You can claim a credit for a portion of the installation costs of a geothermal system according to 15-32-115, MCA, if you are constructing a new residence. The credit of up to \$1,500 may be carried forward for seven succeeding tax years. This credit is effective for tax years beginning after December 31, 2005.

**Line 20 - Insure Montana Credit.** If you are an eligible small employer, as defined in 33-22-2006,

MCA, you can claim a credit for qualifying insurance premiums paid for coverage of eligible employees and their spouses and dependents under a group health plan. If you claim this credit, please attach a copy of the letter from the State Auditor's Office providing the final amount of tax credit the business received. If you are using insurance premiums to calculate the Health Insurance for Uninsured Montanans Credit (line 5), these premium payments cannot be used to calculate the Insure Montana Credit. In addition, if you deducted these premiums to calculate Montana taxable income, you have to add the amount deducted on your federal tax return back on line 2 of Montana Form CLT-4. The amount to add back on line 2 of Montana Form CLT-4 is two times the amount of the allowable credit. 33-22-2006(4) MCA. You can claim this credit even if it exceeds your income tax liability on line 10 of Form CLT-4.

**NEW Line 21 - Temporary Emergency Lodging Credit.**

For tax years beginning after December 31, 2007, a refundable tax credit is available for licensed establishments that provide short-term emergency lodging under the Temporary Emergency Lodging Program. The program helps provide lodging for individuals or families who have been displaced from their residence and have been referred to the establishment by a charitable organization approved by the Montana Department of Public Health and Human Services. Please visit their website at <http://www.dphhs.mt.gov/PHSD/Food-consumer/emergency-lodging.shtml> for additional information regarding participation in this program.

The credit is \$30 for each night of lodging provided by the establishment. A corporation may claim the credit if it is the owner of the establishment or it has an ownership interest in the partnership or S corporation that owns the establishment.

For further instructions on the temporary emergency lodging credit and to calculate this credit, see Montana Form TELC. When you claim this credit, you will have to attach a copy of Montana Form TELC to your tax return.

**Line 22** - Add the totals of lines 1 through 21 and enter the amounts on line 22.

## Instructions for Schedule WE

### Who needs to fill out Schedule WE?

You need to fill out this schedule if you have a valid water's edge election. A water's edge election allows you to apportion your worldwide income to this state using only certain affiliated corporations. When you file a return using the water's edge method, you include corporations based upon attributes such as the location of the corporation's payroll and property and the percentage of ownership that you have in the corporation. 15-31-322, MCA.

## Part I. Water's Edge Election

You can elect to compute your income attributable to Montana sources based on a water's edge combined return.

If you wish to claim a water's edge election, you must file a written election with us within 90 days of the tax year in which this election is to become effective. Each election binds you for a three-year renewable period. You must file a written election for each three-year period. You will need to file for a new election again within the first 90 days of the tax period for which your subsequent election is to become effective. You can revoke the election if we send you our written permission to do so.

On Line 1, enter the tax periods for which a valid water's edge election has been approved by the department.

## Part II. How to Calculate the Deemed Dividends Received from Corporations Incorporated Outside of the United States

A corporation that is incorporated in the United States that has more than 80% of the average of its payroll and property assignable to a location outside the United States is commonly referred to as an 80/20 company. An 80/20 company is not eligible to be included in a water's edge filing group.

The water's edge combined return includes only the income and apportionment factors of the members of the unitary group that meet the criteria set forth in 15-31-322 MCA and summarized in 1-6 below. If your affiliated entity meets any *one* of these criteria and is unitary, it is included in your combined return. If your affiliated entity does not meet any of these criteria, it is excluded from your combined return.

1. An affiliated entity that:

- (a) is incorporated in the United States,
- (b) is in a unitary relationship with you,
- (c) has less than 80% of its payroll and property assigned to locations outside the United States, and
- (d) is eligible to be included in a federal consolidated tax return as described in 26 U.S.C. 1501 through 1505, with the exception that the 80% ownership requirement described in 26 U.S.C. 1504 is reduced to ownership of over 50% of the voting stock directly or indirectly owned or controlled by a member of the water's edge group.

2. Domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign sales corporations, as described in 26 U.S.C. 921 through 927.

3. Export trade corporations, as described in 26 U.S.C. 970 and 971.

4. Foreign corporations deriving gain or loss from disposition of a United States real property interest to the extent recognized under 26 U.S.C. 897.
5. A corporation incorporated outside the United States, if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if less than 80% of the average of its payroll and property is assignable to a location outside the United States.
6. An affiliated entity that is in a unitary relationship with you and that is incorporated in a tax haven country. Please refer to Part IV below for additional details.

A portion of the after-tax net income of United States corporations that are excluded as 80/20 companies and the United States possession corporations described in sections 931 through 934 and 936 of the Internal Revenue Code are considered dividends received from corporations that are incorporated outside of the United States. These deemed dividends are included in the apportionable income and are to be calculated in Part II.

**Line 1 - Positive taxable income of 80/20 companies.**

Using a by-company breakdown of your federal consolidated return, enter on line 1 the amount that you reported on line 30 of your federal return for all of your 80/20 companies that had positive income. When you compute 80/20 positive taxable income for this line, you should not include any 80/20 companies that reported a loss on line 30 of your federal return.

**Line 2 - Consolidated 1120 positive taxable income.**

Enter the total of the amounts that you reported on your federal form line 30 for all of your companies that had a positive income. When you compute consolidated 1120 positive taxable income, you should not include any companies that reported a loss on line 30 of your federal return.

**Line 3 - Ratio of 80/20 positive income to consolidated 1120 income.** Divide the amount on line 1 by the amount on line 2; enter the result on line 3.

**Line 4 - Tax liability as reported on consolidated 1120.** Enter the federal tax liability that you reported on your federal consolidated Form 1120, net of any federal tax credits.

**Line 5 - Federal tax liability associated with 80/20 companies.** Multiply line 3 by line 4; enter the result on line 5.

**Line 6 - Section 78 gross-up received by 80/20 companies.** Enter the amount that you reported on your federal Schedule C for Section 78 gross-up that your 80/20 companies received during the tax period.

**Line 7 - After-tax net income of 80/20 companies.** Subtract line 5 and line 6 from line 1; enter the result on line 7.

**Line 8 - After-tax net income of unconsolidated 80/20 companies.** Calculate the after-tax net income for your U.S. corporations that qualify as an 80/20 company, that are owned greater than 50% and that are not included in your consolidated federal return. After-tax net income is calculated by subtracting the tax liability from the taxable income on the corporation's federal form. Enter this amount on line 8.

**Line 9 - After-tax net income of U.S. possession companies.** Calculate the after-tax net income for your U.S. possession corporations described in sections 931 through 934 and 936 of the Internal Revenue Code. After-tax net income is calculated by subtracting the tax liability from the taxable income on the corporation's federal Form 1120. Enter this amount on line 9.

**Line 10 - Total after-tax net income.** Add lines 7, 8 and 9; enter the total on line 10.

**Line 11 - 20% deemed dividend from 80/20 companies.** Multiply line 10 by 20%; enter the result on line 11, and line 2(g) of Form CLT-4, page 3.

**Part III - List of 80/20 Companies**

**Column 1 - Name.** Enter the name of each company qualified as an 80/20 company for the filing period.

**Column 2 - FEIN.** Enter the federal identification number of each company qualified as an 80/20 company for the filing period.

**Column 3 - Income/Loss.** Enter the income or loss that you reported on your federal consolidated return, line 30 for each company that qualified as an 80/20 company for this filing period.

**Column 4 - Dividends Received.** Enter the total dividends that were received by each company that qualified as an 80/20 company for this filing period.

**Part IV - List of Controlled Foreign Corporations**

**Column 1 - Name.** Enter the name of each company incorporated outside the United States that is directly or indirectly owned greater than 50% by corporations within the water's edge group. Also enter the name of each foreign partnership or foreign disregarded entity in which a corporation within the water's edge group held a direct or indirect interest.

**Column 2 - Country of Incorporation/Organization.** Enter the country of incorporation or organization for each company listed in column 1.

**Column 3 - Income/Loss.** Enter the income or loss that you reported on your federal Form 5471 for each company listed.

You must submit a copy of the federal Form 5471 of each company that is incorporated in a tax haven country during this filing period.



For each tax period beginning after December 31, 2003, your water's edge combined return must include the income of each corporation that is in a unitary relationship with you and that is incorporated in a tax haven country . As set forth in 15-31-322 MCA, tax haven countries currently include Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Turks and Caicos Islands, Dominica, Gibraltar, Grenada, Guernsey-Sark-Alderney, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Maldives, Marshall Islands, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Panama, Samoa, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Tonga, U.S. Virgin Islands and Vanuatu. Updated to include Cyprus, Malta, Mauritius and San Marino.

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